APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,687	06/23/2003	Thomas C. Russell	M02A442	7982

71134   7590   09/25/2008
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EXAMINER
GAMI, TEJAL

ART UNIT	PAPER NUMBER
2121	

MAIL DATE	DELIVERY MODE
09/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/601,687	RUSSELL ET AL.
	Examiner	**Art Unit**
	TEJAL J. GAMI	2121

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>15 September 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>4</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☒ Other: See Continuation Sheet.

/Albert DeCady/
Supervisory Patent Examiner, Art Unit 2121

U.S. Patent and Trademark Office
PTOL-303 (Rev. 08-06)   **Advisory Action Before the Filing of an Appeal Brief**   Part of Paper No. 20080922

Continuation of 11. does NOT place the application in condition for allowance because: The claims as written are anticipated by the prior art cited in the previous office action. Therefore, applicant's arguments are deemed not persuasive.

Continuation of 13. In direct response to Applicant's arguments the following are the Examiner's observations in regard thereto:

Applicant Argues: When properly read, it should be clear that these portions of Niemela do not teach the recited plurality of devices each having configuration means for creating or updating device configuration data. On this basis alone, Applicants submit that the rejection is defective and should, therefore, be withdrawn.

Examiner Responds: It is well known in the art of distributed control that OLE for Process Control is a common way for applications to access data from any device on the plant floor, thereby creating a seamless data access in a manufacturing environment.

Applicant Argues: Nothing is disclosed that corresponds to data providing a representation of interconnection and interaction between the devices in the manufacturing environment of Niemela.

Examiner Responds: In addition to portions of the art presented in the previous office action, see Page 43 where Niemela discloses data from the physical devices can be tranferred into a Supervisory Control and Data Acquisition or Distributed Control System; and OPC developed in order to satisfy the demand for intergrating plant floor data into business systems.

Applicant Argues: Niemela does not disclose auto-discovery means for permitting a SCADA system to both self-configure itself relative to devices in an industrial equipment network, and to be updated relative to changes in the configuration of the industrial equipment, and associated devices or equipment therein, including discovering new or changed devices via communication of the device configuration data over said computer network. And certainly nothing in the casual reference to "auto-detecting hardware" suggests the use of "device configuration data" received from devices on a network, where the device configuration data describes both the sending device and its relationship to other devices in the network. Even assuming "auto-detecting hardware" suggests hardware capable of detecting another device connected to the hardware, that does not equate to receiving information that describes the detected device's interconnection and interaction with other devices.

Examiner Responds: Page 24 and 27 of the prior art disclosing auto-detecting hardware as part of a Microsoft system, and Page 43 teaches Object Linking and Embedding for Process Control is based on Microsoft's OLE/COM technology; where OPC is responsible for data collection from a physical device developed in order to satisfy the demand for integrating plant floor data into business systems.

Applicant's arguments have been fully considered but they are not deemed persuasive. Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. See MPEP 2111 [R-1] Interpretation of Claims-Broadest Reasonable Interpretation.